

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Mayron R. Gilree,)	C/A No. 0:14-3686-RMG-PJG
)	
Petitioner,)	
)	
vs.)	ORDER
)	
Celia Reynolds,)	
)	
Respondent.)	
)	

The petitioner, Mayron R. Gilree, a self-represented state prisoner, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On December 8, 2014, the respondent filed a motion for summary judgment. (ECF No. 15.) Pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the court advised the petitioner of the summary judgment and dismissal procedures and the possible consequences if he failed to respond adequately to the respondent's motion. (ECF No. 17.) Gilree filed a response in opposition. (ECF No. 19.)

Respondent's arguments in support of her motion for summary judgment are largely based on the apparently mistaken premise that a final order has been issued in Gilree's second PCR action (Gilree v. State of South Carolina, 13-CP-42-2072, ECF No. 16-7), which was filed on May 7, 2013. However, a review of the documents submitted by the respondent do not support that position. The respondents have submitted and cite a proposed conditional order of dismissal (ECF No. 16-10), a signed conditional order of dismissal (ECF No. 16-12), Gilree's objections to the conditional order of dismissal (ECF No. 16-11), and an order of merger, which consolidated Gilree's second and third PCR applications and directed that Gilree's third PCR application be considered as an amendment to his second PCR application (ECF No. 16-13). However, the respondent produced no final order

of dismissal with regard to the second PCR application. Further, review of the Spartanburg County Seventh Judicial Circuit Public Index shows that Gilree's first and third PCR actions have been closed; however, his second PCR action has no disposition date and appears to remain pending. See <http://publicindex.sccourts.org/Spartanburg/PublicIndex/PISearch.aspx> (following validation, enter last name "Gilree", first name "M"; Action Type "Post Conviction Relief" and Search) (last visited March 2, 2015).

Therefore, the court directs the respondent within twenty-one days of the date of this order to address the status of Gilree's second PCR action and supplement the record if necessary, and if the second PCR action is still pending with no final order, address how that fact may change the respondent's position on the timeliness of Gilree's Petition under § 2244(d), her procedural bar analysis, and the merits of Gilree's claims. Further, Gilree may have twenty-one days from the date of the respondent's supplement to respond to any additional arguments raised by the respondent, if he so desires.



Paige J. Gossett
UNITED STATES MAGISTRATE JUDGE

March 2, 2015
Columbia, South Carolina